

K.S.A. 44-534a(a)(1) grants the Administrative Law Judge the authority to decide issues dealing with the furnishing of medical treatment and the payment of temporary total disability compensation at preliminary hearings.

K.S.A. 44-551(b)(2)(A) provides that the Appeals Board shall not review a pending preliminary hearing order entered by the Administrative Law Judge unless it is alleged the Administrative Law Judge exceeded his jurisdiction in granting or denying relief requested.

K.S.A. 44-534a lists preliminary hearing findings, with regard to the following disputed issues, as jurisdictional and subject to review by the appeals board:

- (a) Whether the employee suffered an accidental injury;
- (b) Whether the injury arose out of and in the course of employment;
- (c) Whether notice is given or claim timely made;
- (d) Whether certain defenses apply.

In the instant case the Administrative Law Judge, in his Order of December 22, 1992, appointed Dr. Jay Stanley Jones as the authorized treating physician in this matter. In the subsequent hearing of February 2, 1995, the Administrative Law Judge elected to de-authorize Dr. Jones. The same statute that grants the Administrative Law Judge the authority to appoint authorized treating physicians also gives the Administrative Law Judge the power and authority to de-authorize that same doctor.

As the Administrative Law Judge is empowered and has the authority to make decisions regarding the furnishing of ongoing medical treatment to the claimant, the Appeals Board finds that it does not have jurisdiction to entertain this appeal of the preliminary hearing as this issue does not fall within one of the jurisdictional issues set forth in K.S.A. 44-534a(a)(2).

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark dated February 2, 1995, remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of April, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Steven R. Wilson, Wichita, KS
Frederick L. Haag, Wichita, KS
Kurt Ratzlaff, Wichita, KS
John D. Clark, Administrative Law Judge
George Gomez, Director